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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09 604,474	06 27 2000	Wordell Nelson	LD 11114	5090

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EXAMINER

TON, ANABEL

ART UNIT PAPER NUMBER

2875

DATE MAILED: 12 21 2001

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/604,474

Applicant(s)

NELSON ET AL.

Examiner

Anabel M Ton

Art Unit

2875

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 16 October 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☐ Claim(s) 1-23 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) 1-5, 10-17, 22 and 23 is/are rejected.
- 7) ☒ Claim(s) 18-216-9 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s) _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ 6) ☐ Other

DETAILED ACTION

1. Applicant's arguments with respect to claims 1-23 have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 112

2. Claims 5,15 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.
3. Claim 5 and 15 recite the limitation "and the LED serving as the light source is selectively movable" in lines 2-3. There is insufficient antecedent basis for this limitation in the claim. The applicant specifies an "LED array" is selectively movable in the specification.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) The invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) do not apply to the examination of this application as the application being examined was not (1) filed on or after November 29, 2000, or (2) voluntarily

published under 35 U.S.C. 122(b). Therefore, this application is examined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

1. Claims 1, 3,4,5,10,12-15, 17 and 22 are rejected under 35 U.S.C. 102(e) as being anticipated by Sharrah et al 6,250,771).

Sharrah discloses: a housing; at least one light emitting diode (LED) mounted within the housing generating an LED beam and serving as a light source for the flashlight; and a reflector extending from an end of the housing for focusing and dispersing the LED beam to a desired light contour (fig 2), the housing encloses a series of batteries operating as the power source for the flashlight, the reflector is selectively adjustable for focusing and dispersing the LED beam as desired, the reflector is fixed and the LED serving as the light source is selectively moveable for focusing and dispersing the LED beam as desired(if the reflector is not moved and the entire lighting apparatus is, the LED serving as the light source is selectively movable), at least one light emitting diode (LED) mounted within the housing generating a mechanically adjustable LED beam and serving as a light source, a reflector extending from an end of the housing for focusing and dispersing the at least one LED to a desired light contour, an electronic current regulator enclosed by the housing for allowing the LED beam to remain at a constant and desired light level (inherent).

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 2, 11, 16 and 23, are rejected under 35 U.S.C. 103(a) as being unpatentable over Sharrah et al as applied to claims 1 and 12 above, and further in view of Lebens et al.

Lebens discloses a plurality of LEDs arranged concentrically around a single LED thereby forming a substantially circular configuration and a dynamic pulse control system (abstract).

4. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have a plurality of LEDs arranged concentrically around a single LED thereby forming a substantially circular configuration and a dynamic control system since such structure and components for use in an LED lighting system are well known in the art.

Allowable Subject Matter

5. Claims 6-9 and 18-21 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

6. The following is a statement of reasons for the indication of allowable subject matter: The prior art cited does not disclose the following:

- Adjustable switch coupled to a variable resistor for controlling the level of optical output;
- The switch is adapted to selectively turn on and off any select number of the at least one LED, thereby allowing a user to choose from several different levels of illumination;
- The switch operates as a step level variable control having at least two distinct levels of illumination;
- The switch operates as a rheostat having continuous variable control thereby allowing selective desired levels of illumination;
- An adjustable switch coupled to a variable resistor for controlling the level of optical output;
- The switch is adapted to selectively turn on and off any select number of the at least one LED, thereby allowing a user to choose from several different levels of illumination;
- The switch operates as a step level variable control having at least two distinct levels of illumination;

switch operates as a rheostat having continuous variable control thereby
ing selective levels of illumination;

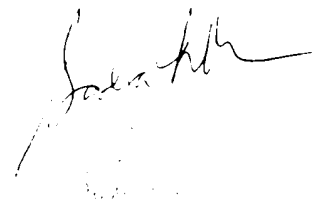
Any inquiry concerning this communication or earlier communications from the
examiner should be directed to Anabel M Ton whose telephone number is (703) 305-
1084. The examiner can normally be reached on 08:00-16:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's
supervisor, Sandra O'Shea can be reached on (703) 305-4939. The fax phone
numbers for the organization where this application or proceeding is assigned are (703)
305-3431 for regular communications and (703) 308-7724 for After Final
communications.

Any inquiry of a general nature or relating to the status of this application or
proceeding should be directed to the receptionist whose telephone number is (703) 308-
0956.

Anabel M Ton
Examiner
Art Unit 2875

AMT
December 17, 2001

A handwritten signature in black ink, appearing to read 'Anabel M Ton', is written over a faint, circular official stamp.